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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,380	07/09/2003	Hiroyuki Nishimura	740819-1019	1382
22204	7590	12/28/2004	EXAMINER	
NIXON PEABODY, LLP			TRAN, BINH Q	
401 9TH STREET, NW			ART UNIT	
SUITE 900			PAPER NUMBER	
WASHINGTON, DC 20004-2128			3748	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/615,380	NISHIMURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BINH Q. TRAN	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-8, 14 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 9 is/are rejected.
- 7) ☒ Claim(s) 10-13, 15-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/23/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to the election/restriction requirement filed October 06, 2004.

#### ***Response To Election/Restriction***

Applicant's election without traverse of the species of Figures 1-5, in response to the election/restriction requirement mailed September 22, 2004, is acknowledged.

Claims 2-8, 14, and 17-20 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in paper filed October 06, 2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP, 821.01.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b)

only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

***Claims 1 and 9 are rejected under 35 U.S.C. 102 (e) as being anticipated by Mikami et al.***

***(Mikami) (Patent Number 6,655,133).***

Regarding claim 1, Mikami discloses engine exhaust particulate after-treatment system (e.g. 10, 72) comprising exhaust particulate trapping means (e.g. 72) provided in an exhaust path of an engine (1) for trapping particulates in exhaust gases, said engine exhaust particulate after-treatment system further comprising exhaust flow rate drop restriction means (e.g. 22, 23, 71a) for restricting, on deceleration of the engine during the removal by burning of exhaust particulates trapped by the exhaust particulate trapping means, the drop of the flow rate of exhaust gases flowing into the exhaust particulate trapping means (e.g. See col. 18, lines 42; col. 24, lines 18-67; col. 25, lines 1-5).

Regarding claim 9, Mikami further discloses exhaust particulate amount detecting means for directly or indirectly detecting the amount of exhaust particulate trapped by the exhaust particulate trapping means; regeneration means for removing exhaust particulates trapped by the exhaust particulate trapping means by burning when the amount of exhaust particulate detected by the exhaust particulate amount detecting means reaches a predetermined value (e.g. See col. 15, lines 62-67; col. 16, lines 1-67; col. 17, lines 1-5); and deceleration detecting means for detecting a deceleration condition of the engine, wherein the exhaust flow rate drop restriction means is configured to restrict, when a deceleration condition of the engine is detected during the removal by burning of exhaust particulates by the regeneration means, the drop of the flow rate

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of exhaust gases flowing into the exhaust particulate trapping means (e.g. See col. 18, lines 42; col. 24, lines 18-67; col. 25, lines 1-5).

***Allowable Subject Matter***

Claims 10-13, and 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of five patents:

Hirota et al. (Patent Number 6823665), Moraal et al. (Patent Number 6574956), Ito et al. (Patent Number 6276130), Kume et al. (Patent Number 4835964), and Ito et al. (Patent Number 6763799) all disclose an exhaust gas purification for use with an internal combustion engine.

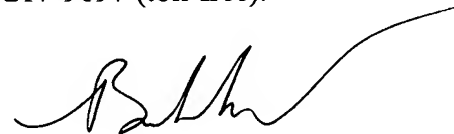
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT  
December 23, 2004



Binh Q. Tran  
Patent Examiner  
Art Unit 3748